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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,753	01/28/2004	Janet W. Rivett	031456/272026	2267
826	7590	10/24/2006		EXAMINER
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				NUTTER, NATHAN M
			ART UNIT	PAPER NUMBER
				1711

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

20061020

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Nathan M. Nutter  
Primary Examiner  
Art Unit: 1711

<b>Advisory Action Before the Filing of an Appeal Brief</b>		Application No.	Applicant(s)
		10/766,753	RIVETT ET AL.
		Examiner	Art Unit
		Nathan M. Nutter	1711
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --			
THE REPLY FILED <u>18 October 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.			
1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:			
a) <input checked="" type="checkbox"/> The period for reply expires <u>3</u> months from the mailing date of the final rejection.			
b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than <u>SIX MONTHS</u> from the mailing date of the final rejection.			
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).			
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).			
<b>NOTICE OF APPEAL</b>			
2. <input type="checkbox"/> The Notice of Appeal was filed on <u>      </u> . A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).			
<b>AMENDMENTS</b>			
3. <input checked="" type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because			
(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);			
(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);			
(c) <input checked="" type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or			
(d) <input checked="" type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.			
NOTE: <u>      </u> . (See 37 CFR 1.116 and 41.33(a)).			
4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).			
5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): <u>      </u> .			
6. <input type="checkbox"/> Newly proposed or amended claim(s) <u>      </u> would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).			
7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input checked="" type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.			
The status of the claim(s) is (or will be) as follows:			
Claim(s) allowed: <u>      </u> .			
Claim(s) objected to: <u>      </u> .			
Claim(s) rejected: <u>1-14</u> .			
Claim(s) withdrawn from consideration: <u>15-28</u> .			
<b>AFFIDAVIT OR OTHER EVIDENCE</b>			
8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).			
9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).			
10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.			
<b>REQUEST FOR RECONSIDERATION/OTHER</b>			
11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>			
12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). <u>      </u>			
13. <input type="checkbox"/> Other: <u>      </u>			

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' scattered response fails to delineate reasons to remove the rejections of record. As regards Miyamoto et al, it is pointed out that all the claimed compositional elements are present, and, as such, a skilled artisan would have great expectations of arriving at the claimed invention. Applicants complain that the reference does not state the element of the recited optical properties. The reference does teach the constituents of the composition and, as a result, would inherently have those properties. If all of the compositional elements are disclosed, and the pending claims recite nothing to provide any difference between the claimed composition from that disclosed, the properties would be expected. With regard to the reference to Miyamoto et al, applicants opine that the comparative examples 2 and 3 show a different haze value. Applicants have shown nothing on the record as to why the disclosed invention, not the comparative examples of the reference, would not have the expected haze values. A reference is taken for the entirety of its teachings, not for isolated passages. Besides, it is pointed out that applicants erroneously contend "comparative example() 1... which is the closest prior art to the claimed invention, do(es) not have the recited properties." Yet, comparative example 1 has a haze value of 7, less than that recited herein. Again, a reference is taken for the entirety of its teachings. As regards the reference to Khanarian, the reference shows manipulation of the haze values at page 2596 and even states that transparent blends are produced. Applicants' assertions regarding this bolster the Examiner's position. It clearly shows why one of ordinary skill in the art would know what elastomers would be suitable to use or not.